

§ 760.631

7 CFR Ch. VII (1–1–11 Edition)

after an application for payment is made, the FSA county committee will determine whether:

(1) The participant submitting the production evidence acted in good faith or took action to defeat the purposes of the program, such that the information provided was intentionally false or incorrect.

(2) The same false, incorrect, or unacceptable production evidence was submitted for payment(s) under crop insurance or NAP, and if so, for NAP covered crops, make any NAP program adjustments according to § 1437.15 of this title.

(b) If the FSA county committee determines that the production evidence submitted is false, incorrect, or unacceptable, and the participant who submitted the evidence did not act in good faith or took action to defeat the purposes of the program, the provisions of § 760.109, including a denial of future program benefits, will apply. The Deputy Administrator may take further action, including, but not limited to, making further payment reductions or requiring refunds or taking other legal action.

(c) If the FSA county committee determines that the production evidence is false, incorrect, or unacceptable, but the participant who submitted the evidence acted in good faith, payment may be adjusted and a refund may be required.

§ 760.631 SURE guarantee calculation.

(a) Except as otherwise provided in this part, the SURE guarantee for a farm is the sum obtained by adding the dollar amounts calculated in paragraphs (a)(1) through (a)(3) of this section.

(1) For each insurable crop on the farm except for value loss crops, 115 percent of the product obtained by multiplying together:

(i) The price election. If a price election was not made or a participant is eligible as specified in §§ 760.105, 760.106, or 760.107, then the percentage of price will be 55 percent of the NAP established price;

(ii) The payment acres determined according to § 760.632;

(iii) The SURE yield as calculated according to § 760.638; and

(iv) The coverage level elected by the participant. If a coverage level was not elected or a participant is eligible as specified in §§ 760.105, 760.106, or 760.107, a coverage level of 50 percent will be used in the calculation.

(2) For each noninsurable crop on a farm except for value loss crops, 120 percent of the product obtained by multiplying:

(i) 100 percent of the NAP established price for the crop;

(ii) The payment acres determined according to § 760.632;

(iii) The SURE yield calculated according to § 760.638; and

(iv) 50 percent.

(3) The guarantee for value loss crops as calculated according to § 760.634.

(4) In the case of an insurable crop for which crop insurance provides for an adjustment in the guarantee liability, or indemnity, such as in the case of prevented planting, that adjustment will be used in determining the guarantee for the insurable crop.

(5) In the case of a noninsurable crop for which NAP provides for an adjustment in the level of assistance, such as in the case of unharvested crops, that adjustment will be used for determining the guarantee for the noninsurable crop.

(b) Those participants who are eligible according to §§ 760.105, 760.106, or 760.107 who do not have crop insurance or NAP coverage will have their SURE guarantee calculated based on catastrophic risk protection or NAP coverage available for those crops.

(c) FSA will not include in the SURE guarantee the value of any crop that has a de minimis exception, according to § 760.613.

(d) For crops where coverage may exist under both crop insurance and NAP, such as for pasture, rangeland, and forage, adjustments to the guarantee will be the product obtained by multiplying the county expected yield for that crop times:

(1) 115 percent;

(2) 100 percent of the NAP established price;

(3) The payment acres determined according to § 760.632;

(4) The SURE yield calculated according to § 760.638; and

Farm Service Agency, USDA

§ 760.633

(5) The coverage level elected by the participant.

(e) Participants who do not have a SURE yield as specified in § 760.638 will have a yield determined for them by the Deputy Administrator.

(f) The SURE guarantee may not be greater than 90 percent of the sum of the expected revenue for each of the crops on a farm, as determined by the Deputy Administrator.

§ 760.632 Payment acres.

(a) Payment acres as calculated in this section are used in determining both total farm revenue and the SURE guarantee for a farm. Payment acreage will be calculated using the lesser of the reported or determined acres shown to have been planted or prevented from being planted to a crop.

(b) Initial crop acreage will be the payment acreage for SURE, unless the provisions for subsequent crops in this section are met. Subsequently planted or prevented planted acreage is considered acreage for SURE only if the provisions of this section are met. All plantings of an annual or biennial crop are considered the same as a planting of an initial crop in tropical regions as defined in part 1437, subpart F, of this title.

(c) In cases where there is double cropped acreage, each crop may be included in the acreage for SURE only if the specific crops are either insured crops eligible for double cropping according to RMA or approved by the FSA State committee as eligible double cropping practices in accordance with procedures approved by the Deputy Administrator.

(d) Except for insured crops, participants with double cropped acreage not meeting the criteria in paragraph (c) of this section may have such acreage included in the acreage for SURE on more than one crop only if the participant submits verifiable records establishing a history of carrying out a successful double cropping practice on the specific crops for which payment is requested.

(e) Participants having multiple plantings may have each planting included in the SURE guarantee only if the planting meets the requirements of

part 1437 of this title and all other provisions of this subpart are satisfied.

(f) Provisions of part 718 of this title specifying what is considered prevented planting and how it must be documented and reported will apply to this payment acreage for SURE.

(g) Subject to the provisions of this subpart, the FSA county committee will:

(1) Use the most accurate data available when determining planted and prevented planted acres; and

(2) Disregard acreage of a crop produced on land that is not eligible for crop insurance or NAP.

(h) For any crop acreage for which crop insurance or NAP coverage is canceled, those acres will no longer be considered the initial crop and will, therefore, no longer be eligible for SURE.

(i) Notwithstanding any other provisions of these or other applicable regulations that relate to tolerance in part 718 of this title, if a farm has a crop that has both FSA and RMA acreage for insured crops, payment acres for the SURE guarantee calculation will be based on acres for which an indemnity was received if RMA acres do not differ from FSA acres by more than the larger of 5 percent or 10 acres not to exceed 50 acres. If the difference between FSA and RMA acres is more than the larger of 5 percent or 10 acres not to exceed 50 acres, then the payment acres for the SURE guarantee will be calculated using RMA acres. In that case, the participant will be notified of the discrepancy and that refunds of unearned payments may be required after FSA and RMA reconcile acreage data.

§ 760.633 2008 SURE guarantee calculation.

(a) For a participant who is eligible due to the 2008 buy-in waiver for risk management purchase under the provisions of § 760.105(c), the SURE guarantee for their farm for the 2008 crop will be calculated according to § 760.631, or according to § 760.634 for value loss crops, with the exception that the:

(1) Price election in § 760.631(a)(1)(i) is 100 percent of the NAP established price for the crop;

(2) Coverage level in § 760.631(a)(1)(iv) is 70 percent; and